



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0033; Notice 2]

#### Mack Trucks Inc., Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** Mack Trucks Inc. (Mack Trucks) has determined that certain model year (MY) 2016–2020 Mack heavy duty motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 101, *Controls and Displays*. Mack Trucks filed a noncompliance report dated October 9, 2019, and later amended the report on May 29, 2020. Mack Trucks subsequently petitioned NHTSA for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety on November 2, 2019, and later amended this petition on May 29, 2020, and July 9, 2020. This notice announces the grant of Mack Trucks’ petition as amended.

**FOR FURTHER INFORMATION CONTACT:** Neil Dold, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), (202) 366-7352, [Neil.Dold@dot.gov](mailto:Neil.Dold@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Overview:

Mack Trucks determined that certain MY 2016–2020 Mack heavy duty motor vehicles do not fully comply with the requirements of paragraph S5.2.1 of FMVSS No. 101, *Controls and Displays* (49 CFR 571.101). Mack Trucks filed a noncompliance report dated October 9, 2019, and later amended the report on May 29, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Mack Trucks subsequently petitioned NHTSA on

November 2, 2019, and later amended the petition on May 29, 2020, and July 9, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of Mack Trucks' petition was published with a 30-day public comment period, on September 18, 2020 in the **Federal Register** (85 FR 58423). One comment was received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2020-0033."

## **II. Vehicles Involved:**

Approximately 47,742 MY 2019–2020 Anthem, Pinnacle, and Granite model vehicles and MY 2016-2020 LR model vehicles manufactured between July 12, 2015, and October 3, 2019, are potentially involved.

## **III. Noncompliance:**

Mack Trucks explains that the noncompliance is that the subject vehicles are equipped with certain controls that are not properly labeled with the appropriate symbols or words as required by paragraph S5.2.1, Table 1 of FMVSS No. 101. Specifically, in the Anthem, Pinnacle, Granite, and LR vehicles there is no identifier for the heating and air conditioning fan control and the incorrect identifier was used for the position side marker control. In the LR vehicles the master lighting switch control is not identified with the required symbol.

## **IV. Rule Requirements:**

Paragraph S5.2.1 of FMVSS No. 101 includes the requirements relevant to this petition. Except for the Low Tire Pressure Telltale, each control, telltale, and indicator that is listed in column 1 of Table 1 or Table 2 must be identified by the symbol specified for it in column 2 or the word or abbreviation specified for it in column 3 of Table 1 or Table 2.

## **V. Summary of Mack Trucks' Petition:**

The following views and arguments presented in this section, "V. Summary of Mack Trucks' Petition," are the views and arguments provided by Mack Trucks and do not reflect the views of the Agency. Mack Trucks describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mack Trucks offers the following reasoning:

1. For the heating and air conditioning fan control, the requirement specified that the control must be labeled with the fan symbol or the word "fan." The required symbol or the word "fan" is not on the control. The rotary control has numbers 0 to 4 and is located on the HVAC panel; therefore, it is obvious to the driver that the control is for the fan speed. The owner's manual shows the control and informs that the control is the fan speed. Operation of the vehicles requires a Commercial Driver's License (CDL); therefore, the driver will be a licensed professional driver.
2. For the position side marker, end-outline marker, or identification or clearance lamps control, the control must be labeled with the required symbol or the words "Marker Lamps" or "MK Lps." The control uses a different symbol to identify the marker. The rotary control has a symbol that indicates that the position is for the parking lights. The position in the sequence makes it discernible to the driver. The owner's manual shows the control and informs that the pictured symbol is for the marker lamps. Operation of the vehicle requires a CDL; therefore, the driver will be a licensed professional.
3. For the Master Lighting Control, the control must be labeled with the identified symbol or the word "lights." The control is not identified with the symbol or the word. The control is a three-position toggle switch and includes the low beam headlight symbol and the parking light symbol and, therefore, is discernible to the driver. The owner's manual includes information on the control and its purpose.

Operation of the vehicles requires a CDL; therefore, the driver will be a licensed professional driver.

4. Mack Trucks views these noncompliances as inconsequential to the safe operation of the vehicle. Mack Trucks states that there are no customer complaints, field reports, warranty claims, or accidents associated with these noncompliances.
5. Class 7 & 8 vehicles require that the driver have CDL to operate the vehicle.

Mack Trucks concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

Mack Trucks' complete petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

#### **VI. Comment:**

NHTSA received one comment from the public. While the Agency takes great interest in the public's concerns and appreciates the commenter's feedback, the comment does not address the purpose of this particular petition.

#### **VII. NHTSA's Analysis:**

NHTSA has evaluated the merits of the inconsequential noncompliance petition and supplemental materials submitted by Mack Trucks and has determined that this particular noncompliance is inconsequential to motor vehicle safety. Specifically, the Agency considered the following when making its decision:

1. Each of the noncompliances described in Mack Truck's petition involve deviations from the identification requirements in FMVSS No.101, specifically mislabeled controls.

Mislabeling may affect a driver's recognition of a specific control, but it does not affect

the function of a control. For each of the mislabeled controls described herein, the absence of a required label or use of an incorrect label does not otherwise affect FMVSS No. 101's identification and illumination requirements because other identifying labels are present for each subject control, which assist the driver in selecting the appropriate control.

2. Mack Trucks explained that the subject vehicles have a heating and air conditioning fan control that is missing the required label using the fan symbol or words specified in Table 1 of FMVSS No. 101. While the subject rotary control is missing the required label, it includes labeling of numbers 0 through 4 corresponding to increasing fan speed, and the rotary control is adjacent to and grouped with other labeled controls associated with heating and air conditioning functions on the same control panel; consequently, in this instance, it would be evident to a driver that the numbered rotary control is associated with fan speed for heating and air conditioning, and the noncompliance would not be consequential to safety.
3. Mack Trucks explained that the subject vehicles have marker lamp controls that are labeled with a symbol<sup>1</sup> that does not match the symbol specified in Table 1 of FMVSS No. 101, and that the symbol is still a lighting symbol rather than an arbitrary symbol. Each subject vehicle's marker lamp control is part of a master lighting control that includes multiple individually labeled positions as either a rotary control or three-position switch lever. For all subject vehicles except for the LR vehicles, the master lighting control is labeled with the master lighting switch label specified in Table 2 of FMVSS No. 101. The LR model vehicles are equipped with a master lighting toggle switch that is not labeled with the required symbol or word for identifying the master light control as specified in Table 2 of FMVSS No. 101.

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<sup>1</sup> The symbol used by Mack Trucks described in the petition is a parking light symbol that is not recognized in FMVSS No. 101.

For the Anthem, Pinnacle, and Granite model vehicles, the incorrect marker lamp control label (which is an internationally recognized parking light symbol, similar in nature to the marker light symbol) would not be enough for a driver to confuse the function of the control because it is part of the master lighting switch; the master lighting switch otherwise includes the master lighting switch label specified by the standard and other commonly used lighting symbols. Notably, FMVSS No. 101 permits omission of the marker lamp label when it is part of the master lighting switch.<sup>2</sup>

For the LR model vehicle, the master lighting switch is not labeled with master lighting switch label, and the position for the marker lamps is labeled with the same incorrect symbol for the marker lamps. Still, all symbols that appear on the master lighting switch (marker lamps and head lamps) are commonly recognizable as lighting control symbols. Consequently, the specific control implementations described in Mack Truck's petition and supplemental materials are unlikely to alter a driver's understanding of the lighting controls in a manner that would be consequential to safety.

4. As explained by Mack Trucks, the subject vehicles are trucks that may only be driven by a professional driver holding a commercial driver's license (CDL). NHTSA believes that the qualifications required to drive these subject vehicles further mitigates any remaining safety risk from the noncompliance.

## **VIII. NHTSA's Decision:**

In consideration of the foregoing, NHTSA finds that Mack Trucks has met its burden of persuasion that the subject FMVSS No. 101 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, Mack Trucks' petition is hereby granted and Mack Trucks is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

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<sup>2</sup> The standard permits omission of a separate marker lamp identifier when the marker lamp control is included as part of the master lighting switch (see 49 CFR 571.101 Table 1, Note 8); however, the standard does not permit use of a marker lamp identifier (symbol or word) other than those specified in the standard.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision on this petition only applies to the subject vehicles that Mack Trucks no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mack Trucks notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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